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9 UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF WASHINGTON

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 JOSEPH MARTIN GONZALES,

15 Defendant.

2:18-CR-00195-WFN-1

PLAINTIFF'S SENTENCING
MEMORANDUM

16 Plaintiff, United States of America, by and through William D. Hyslop,
17 United States Attorney for the Eastern District of Washington, and Alison L.
18 Gregoire, Assistant United States Attorney, submits the following sentencing
19 memorandum:

20 I. STATEMENT OF FACTS

21 On January 4, 2018, SA Weekes used the law enforcement version of
22 BitTorrent to establish a single-source connection with IP 73.254.50.91 and
23 initiated a download, resulting in the download of 9 partial & complete video files;
24 7 were viewable, and all 7 depicted children involved in sexually explicit conduct.
25 One of the partial videos contained a 35-second segment, which depicted a pre-
26 pubescent Asian female (approximately 10-13 yoa) with long black hair tied into a
27 pony tail with a yellow ribbon. The girl is crouching in a ball on a bed, completely
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1 naked. A naked adult male walks to the side of the bed and motions for the girl to
2 come over to him; at his direction, the girl then conducts oral sex on the adult
3 male's penis.

4 On February 6, 2018, SA Weekes issued a summons to Comcast requesting
5 subscriber information for IP 73.254.50.91. On February 7, Comcast responded
6 and provided that the subscriber was JOSEPH MARTIN GONZALES, at a specific
7 address in Spokane Valley, Washington. On February 12, 2018, SA Weekes
8 traveled to 15620 East Valleyway and stood in the stairwell of Gonzales'
9 apartment building to establish that all of the wireless networks in the area were
10 password secured.

11 On April 9, 2018, SA Weekes again established a single-source connection
12 with IP 73.254.50.91 and initiated a download, resulting in a download of 23
13 partial and complete video files (18 viewable) and 16 complete image files. Of
14 these, 10 videos and 9 images depicted children involved in sexually explicit
15 conduct. One of the 10 viewable video files is a 1 minute and 31 second segment,
16 which depicts a pre-pubescent female, approximately 10-12 yoa, who has wavy
17 brown hair and is wearing a blue and green floral dress. The girl is dancing in front
18 of a video camera, pulls down the top of her dress and rubs her breasts, then sits on
19 a desk, pulls up her dress, spreads her legs, and exposes her vagina. She rubs her
20 vagina with her right hand, gets off the desk, leans in to the camera, and exposes
21 her breasts again.
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23 On May 11, 2018, SA Weekes again established a single-source connection
24 with IP 73.254.50.91, initiated a download, and successfully downloaded 48 partial
25 & complete videos, 41 of which were viewable. Of the 41 viewable videos, 30
26 constitute federal child pornography. One video, which was 3 minutes and 50
27 seconds long, depicted a pre-pubescent female, approximately 10-12 yoa, with
28 short blonde hair. In the video, the girl is completely naked and kneeling on the

1 floor in front of an adult male as she masturbates his penis with both hands while
2 conducting oral sex.

3 On May 17, 2018, HSI Spokane executed a federal search warrant on
4 Gonzales' residence and seized one homemade desktop computer, two cell phones,
5 three flash drives, three digital memory cards, 29 miscellaneous CDs/DVDs, 17
6 miscellaneous VHS tapes, and one internal computer hard drive.

7 When interviewed, Gonzales said he lives alone at his apartment,
8 subscribes to Comcast internet, and has a secure wireless network named "Hal
9 9000." Gonzales said he is the sole user of his desktop computer, and he has used
10 uTorrent for approximately ten years.

11 SA Weekes reviewed the image and video files extracted from Gonzales'
12 computer and 2 phones and found 3,227 images and 327 videos that show
13 prepubescent and often early pubescent aged minors engaged in sexual acts or
14 whose genitals are displayed. Gonzales downloaded the child pornography
15 beginning January 19, 2018, through May 17, 2018, when the search warrant was
16 executed.

17 II. SENTENCING CALCULATIONS AND PSIR OBJECTIONS

18 The government agrees Defendant's offense level is 26, Criminal History
19 Category is I, and Guideline provision is therefore 63-78 months. The government
20 has no objections to the Presentence Investigation Report (PSIR), which also
21 includes the victim impact statements and restitution requests. ECF No. 53-1.

22 III. SENTENCING FACTORS UNDER 18 U.S.C. §3553(a)

23 In determining the appropriate sentence, this Court should consider the
24 factors as set forth in 18 U.S.C. § 3553(a).

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1 1. The nature and circumstances of the offense and the history and
2 characteristics of Defendant.

3 The circumstances of the offense involve Defendant's sexual interest in
4 children and his willingness to act on his sexual interest in children through
5 receiving child pornography and, by using file sharing software, distributing the
6 same. ECF No. 53 at ¶ 29.

7 The images Defendant maintained included prepubescent children. ECF No.
8 53 at ¶ 28. Defendant possessed over 3,227 child pornography images and 327
9 videos. ECF NO. 53 at ¶ 31.

10 In evaluating the nature and circumstances of the offense, the government
11 asks the Court to consider the victim impact statements (attached to the PSIR) from
12 some of the victims portrayed in images Defendant possessed.

13 In one such statement an adoptive mother details how her boys were
14 removed from their biological parents, pursuant to charges of neglect, and placed
15 in foster care where they were sexually abused and images were made of that
16 sexual abuse. ECF No. 53-1 at 3 of 353. Defendant was in possession of some of
17 those images of that abuse. The adoptive mother explains, "Every time a deranged
18 pervert posts and reposts these graphic images of ours sons, our nightmare occurs
19 again and again. For I know that someone is deriving sick sexual pleasure from
20 viewing pictures of my sons being raped." ECF No. 53-1 at 4 of 353. One the
21 children who was portrayed in that series of images writes, "When a market exists
22 for child pornography it will continue. I am constantly victimized knowing the
23 awful truth that I can never escape these photos or the people that profit from them
24 both sexually and monetarily." ECF No. 53-1 at 8 of 353.

25 Another parent details how her child, abused from ages 4 to 7, is terrified of
26 encountering those who have seen her abuse, fearful of being recognized
27 everywhere she goes. ECF No. 53-1 at 10 of 353. The same mother had indicated
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1 in an earlier impact statement that the family had received hundreds of victim
2 notification letters indicating more of her child's images had been found. ECF No.
3 53-1 at 11 of 353.

4 In another statement, the mother of the child details how receipt of the
5 images generates more production. ECF No. 53-1 at 35 of 353. She says her
6 daughter's images were "made for trade," and the abuser would adapt his abuse to
7 whatever his "audience" was looking to view. ECF No. 53-1 at 35 of 353. The
8 distress to the victim-child resulted in falling behind in school, distrusting any
9 touch to include from her own mother, and hating being called "pretty." ECF No.
10 53-1 at 36 of 353. She talks about how her child, unfortunately, came to learn
11 people (like Defendant) saw the pictures of her abuse as something to enjoy rather
12 than abhor. ECF No. 53-1 at 36 of 353.

13 In another statement the mother of a victim details how she came to learn, in
14 the child pornography trade, what you have to trade is your currency. To get more
15 child pornography and better child pornography, one needs to trade and share.
16 This system resulted in the photos of her daughter being abused being circulated all
17 over the internet. ECF No. 53-1 at 41 of 353. She details the sad realization that
18 the photos, once transmitted on the internet, can never be retrieved. ECF No. 53-1
19 at 41 of 353.

20 In another statement, a victim herself notes how she continues to be
21 impacted knowing, "some sick person is looking at me on the computer everyday."
22 ECF No. 53-1 at 43 of 353. She goes on to state something that should be obvious,
23 "I am a real person." ECF No. 53-1 at 43 of 353.

24 Another victim details concerns from the child pornography trade, indicating
25 because the photos taken of her were circulated she worries that other pedophiles
26 could be in her neighborhood or otherwise around her, resulting in her largely
27 staying in her home. ECF No. 53-1 at 50 of 353. She explains every time she gets
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1 word another person has been found with the pictures she feels like the person who
2 has been found with them is the one who hurt her to begin with. ECF No. 53-1 at
3 50 of 353. She makes clear anyone looking at the photos is abusing the children
4 depicted therein. ECF No. 53-1 at 50 of 353.

5 Another victim yells, “I THINK ABOUT THE CHILD PORNOGRAPHY
6 EVERY DAY! There is not one day that goes by that I don’t think, with hatred,
7 about the sick and disgusting people who view, trade, save and “get off” on my
8 abuse when I was just a little kid and couldn’t defend myself. It is sickening.”
9 ECF No. 53-1 at 56 of 353.

10 Another mother talks about fear that her child will be recognized by those
11 who downloaded images of her abuse. ECF No. 53-1 at 58 of 353. She details her
12 daughter does not want to be defined as a victim, but she can never put the crime in
13 the past, because—with the trade of child pornography—the crime is always
14 ongoing. ECF No. 53-1 at 58 of 353. In the addendum to her statement, she talks
15 about “ongoing abuse” and having a victimized daughter who does not want to
16 exist anymore. ECF No. 53-1 at 62 of 353.

17 Another mother discusses her victimized daughter wanting to alter her
18 appearance, so those who have seen the images of her abuse will not recognize her.
19 ECF No. 53-1 at 69-70 of 353. She discusses how the acts of ingesting and
20 disseminating the images have rendered her child powerless. ECF No. 53-1 at 72
21 of 353.

22 Another child victim, now an adult details how each time her images are
23 viewed, she is forced to relive the most horrific part of her childhood, and as a
24 result, she cannot heal. ECF No. 53-1 at 77 of 353. Another now adult victim also
25 speaks to how the public nature of her private hell has continued to impact her life.
26 ECF No. 53-1 at 87 of 353. She writes about how the abuse at the hands of her
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1 abuser is over but those that download the images are all around and that will go
2 on forever. No. 78-1 at 90 of 353.

3 2. The need for the sentence imposed to reflect the seriousness of the
4 offense, promote respect for the law, and to provide just punishment.

5 The government asks that the Court accept the plea agreement and sentence
6 Defendant to imprisonment for five (5) years. As the Court is well aware, five
7 years is the government's typical recommendation in child pornography cases and
8 this is such a case. The government does not believe a higher sentence is
9 necessary. The government is asking for five years, or the same sentence the
10 government has sought for similarly situated defendants. The government is
11 certainly also well aware that five years' imprisonment is a very significant amount
12 of time, particularly for one without significant criminal history. To be clear,
13 however, as the victim impact statements reiterate again and again, this is a terribly
14 serious crime, and the five years sought is absolutely necessary.

15 The government also asks the Court to order a 10 year term of supervised
16 release. Such a significant sentence is necessary to reflect the seriousness of the
17 offense, promote respect for the law and provide just punishment.

18 3. The need for the sentence imposed to afford adequate deterrence to
19 criminal conduct.

20 Defendant has no criminal history points. However, he did accumulate a
21 significant amount of child pornography, capturing the victimization of many
22 children. Counting each video as 75 images, Defendant had a total of 27,752
23 images of child pornography.

24 The government believes five years is a sufficient term of imprisonment to
25 support deterrence, but the government also recommends a 10 year term of
26 supervised release.
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- 1 4. The need for the sentence imposed to protect the public from further
2 crimes of Defendant.

3 As has been detailed, Defendant's crime is serious. Defendant's
4 demonstrated sexual interest in children makes him a real danger to the public.

5 The government maintains five (5) years imprisonment followed by 10 years
6 of supervised release is sufficient, but not greater than necessary, and will protect
7 the public from further crimes of Defendant.

- 8 5. The need for the sentence imposed to provide Defendant with needed
9 educational or vocational training, medical care, or other correctional
10 treatment in the most effective manner.

11 Defendant has not identified any needed educational or vocational training.

- 12 6. The kinds of sentences available.

13 Defendant is subject to a sentence involving a term of imprisonment.

- 14 7. The kind of sentence contemplated by the Sentencing Guidelines.

15 The Sentencing Guidelines contemplate a term of imprisonment.

- 16 8. Any pertinent policy statements issued by the Sentencing Commission.

17 There are no pertinent policy statements in this case.

- 18 9. The need to avoid unwarranted sentence disparity among defendants with
19 similar records who have been found guilty of similar conduct.

20 Defendant is subject to a sentence similar to others similarly situated.

21 IV. GOVERNMENT'S SENTENCING RECOMMENDATION

22 The government recommends the court impose a sentence of five (5) years
23 imprisonment as well as a ten (10) year term of supervised release. The
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1 government also asks for restitution on behalf of the victims. ECF No. 53 at ¶ 4,
2 87, 89.

3 Respectfully submitted this 28th day of April 2020.

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5 William D. Hyslop
6 United States Attorney

7 s/Alison L. Gregoire
8 Alison L. Gregoire
9 Assistant United States Attorney
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CERTIFICATION

I hereby certify that on April 28, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Colin G. Prince 10 North Post Suite 700 Spokane, WA 99201

s/Alison L. Gregoire

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